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GOVERNMENT GAZETTE

BOLETIM OFICIAL

GOVERNMENT OF GOA, DAMAN AND DIU

Finance (Revenue) Department

Notification

Fin(Rev)/2-36/4/1225/69

In exercise of the powers conferred by proviso to Section 8 of the Goa, Daman and Diu Sales Tax Act, 1964 the Government is pleased to make the following amendments to the entry in the below mentioned notification:

In Notification No. F.D./F.III/2-36/Part-/3044/65-66 dated 29-1-1966 as amended under Notification No. Fin(Rev)/2-36/4/622/69 dated 22-4-1969 for the expression "and chocolates" at item (iii), substitute "chocolates and other types of confectionery".

This Notification shall come into force with effect from 1st August, 1969.

By order and in the name of the Administrator of Goa, Daman and Diu.

Puran Singh, Finance Secretary.

Panaji, 25th July, 1969.

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Law and Judicial Department

Notification

JCC/J-37/69-70(a)

In exercise of the powers conferred by sub-section (1) of section 20 of the Goa, Daman and Diu (Judicial Commissioner's Court) Regulation, 1963 read with section 3 of the Goa, Daman and Diu Judicial Commissioner's Court (Declaration as High Court) Act, 1964 and in supersession of the earlier rules on the subject, I, V. S. Jetley, Judicial Commissioner, Goa, Daman and Diu hereby make the following rules, namely:—

1. **Short Title and commencement.**— (1) These rules may be called the Goa, Daman and Diu

Judicial Commissioner's Court (Appeals to the Supreme Court) Rules, 1969.

(2) They shall come into force at once.

(A) Civil Appeals on the Certificate of the High Court.

2. **Application for Certificate.**— (i) Whosoever desires to appeal to the Supreme Court shall apply by petition to the High Court for a Certificate granting Leave to Appeal to the Supreme Court.

(ii) **Oral Application for Certificate** may be made immediately after pronouncement of judgment.— Notwithstanding anything contained in sub-rule (i) a party desiring to appeal to the Supreme Court may apply orally for such a certificate immediately after the pronouncement of the judgment by the High Court and the Court may grant or refuse the same to the party on such oral application or direct the party to file a petition as required by sub-rule (i):

Provided, however, that if an oral application for Certificate for Leave to Appeal under sub-rule (ii) is made and rejected, no written petition under sub-rule (i) shall lie.

(iii) **Form of Petition.**— Petitions praying for a Certificate for Leave to Appeal to the Supreme Court shall be presented in Form No. I of Schedule A appended to these Rules and shall specify in the heading the names of the actual parties to the appeal at the time of the presentation of the petition, tracing their relation to the original parties to the dispute, where the parties to the appeal have been placed on the record as representatives in interest of such original parties, or explaining in what capacity they have come on the record of the Appeal.

(iv) **Addresses of the parties.**— Full particulars of addresses of the Parties shall be furnished at the time of the filing of the petition.

(v) **Accompaniments to the petition.**— Every petition shall be accompanied by two spare typed copies of the petition and of the judgment for the use of the Court where the judgment has been pronounced by this Court.

3. **Notice of Rule and its service.**— If the Court grants Rule upon the petition, the Registrar shall

issue a notice in Form No. II of Schedule A appended to these Rules on payment of prescribed fee calling upon the opposite party to show cause, within a period of time after the service of the notice to be prescribed by the Registrar, why the certificate as prayed for should not be granted.

4. Registrar to investigate causes of delay if parties are not served within one month. — If the parties concerned are not served within one month of the date on which the Rule is granted, the Registrar shall personally investigate the causes of the delay and take all possible steps to expedite the service and, if necessary, submit the case to the Court for directions.

5. Form of Certificate. — Upon the Court making the Rule absolute the office shall issue a certificate in Form No. III of Schedule A appended to these Rules.

6. Procedure for consolidation of appeals. — No application for consolidation of appeals will be entertained by this Court. The parties desiring consolidation of appeals shall be required to move the Supreme Court for an order in that behalf under Rule 5 of Order XLVII of the Supreme Court Rules, 1966.

7. Procedure for amending record after certificate is granted. — An application for amendment of the record of the appeal by adding or substituting parties will not be entertained by this Court after the date of the order granting the certificate. The parties desiring such amendment shall be required to move the Supreme Court in that behalf.

8. Service of notice in certain cases upon Advocates. — When a party has been represented at the hearing of the appeal by an Advocate, unless the Vakalatnama of such Advocate has been cancelled with the sanction of the Court, such Advocate shall accept service of the notice in the following cases, and the service of notice in such cases on the Advocate shall be deemed sufficient notice: —

- (a) Notice of Rule issued under rule 3 of these Rules;
- (b) Notice of lodgement of petition of appeal under rule 9;
- (c) Notice for inspecting the record and filing the list of documents under rule 11;
- (d) Notice for making deposit for the cost of transmission of the original record, or the preparation of the transcript of the record in English and its transmission, or for the preparation and transmission of the printed or cyclostyled transcript of the record;
- (e) Notice of the transmission of the transcript of the record to the Supreme Court.

Provided that where the notice has been served on an Advocate under the above provisions the Appellant's Advocate shall in addition to the Bhatta to be paid under the rules deposit with the Superintendent at the time of paying the Bhatta an amount calculated at Rs. 4/- for each opponent who can be so served to meet the costs of the Advocate concerned for communicating the notice to his client. The Registrar may order the costs reasonably in-

curred by the Advocate to be paid out of such deposit and may also call upon the appellant's Advocate to make good the deficit, if such costs exceed Rs. 4/-, or may refund the balance, if any:

Provided also that, if the Advocate served with the notice is unable to communicate it to the party concerned, he shall inform the Registrar who may thereupon either order the notice to be served by registered post or through a Court or, if necessary, obtain directions of the Court.

9. Action to be taken on receipt of the copy of petition of appeal from the Supreme Court. — On receipt from the Supreme Court of the copy of the petition of appeal the Registrar shall —

(i) Cause notice of the lodgement of the petition of appeal to be served on the respondent personally or in the manner provided under rule 8 above in Form No. IV of Schedule A appended to these Rules;

(ii) Unless otherwise ordered by the Supreme Court transmit or cause to be transmitted to that Court at the expense of the appellant the original record of the case including the record of the Courts below; and

(iii) As soon as notice as aforesaid is served, send a certificate to the Supreme Court as to the date or dates on which the said notice was served on the respondent or respondents in Form No. V of Schedule A appended to these Rules.

10. Procedure where proceedings in Courts below were had in English. — (i) Where proceedings from which the appeal arises were had in Courts below in English, the Registrar shall, as soon as a copy of the petition of appeal is received from the Supreme Court, call upon the appellant (vide Form No. VI, Schedule A to deposit in this Court the necessary amount to cover the costs of the transmission of the original record of the case including the record of Courts below to the Supreme Court. Upon the appellant's depositing the amount, if the record of the Courts below is in the Court, the Registrar shall forward to the Supreme Court the same along with the record of the case in the Court. If the record of the Courts below is not in the Court the Registrar shall direct the Courts below to transmit the record of the case in those Courts direct to the Supreme Court under intimation to this Court and to inform this Court of the expenses incurred by them for such transmission. The Registrar shall also forward to the Supreme Court the record of the case so far as it pertains to the appeal in the Court.

(ii) **Balance to be refunded.** — The balance of the deposit, after meeting the costs of the transmission of the record by the Courts below as well as this Court, shall be refunded to the appellant.

(iii) **Default to be reported to Supreme Court.** — Any default on the part of the appellant to deposit the amount to cover the costs of the transmission of the record as above shall be reported to the Supreme Court for orders.

11. Procedure where proceedings in Courts below were had in a language other than English. — (i) Where the proceedings from which the appeal arises were had in Courts below in a language other than English, the Registrar shall, as soon as a copy of the petition of appeal is received from the Supreme

Court, secure the record and proceedings of the case from the Courts below, if the same are not already in the Court, and, as soon as the same are received in the Court, shall issue notices to the parties calling upon them to inspect the record and proceedings of the case, if they so desire.

(ii) **Contents of notice to appellant.** — The notice to the appellant under sub-rule (i) above shall also call upon the appellant to file, within four weeks of the service upon him of the said notice, a list of documents which he proposes to include in the paper book, after serving a copy thereof on each of the respondents. The appellant shall produce an acknowledgment in writing from each of the respondents that a copy of the list has been served on him.

(iii) **Contents of notice to respondent.** — The notice to the respondent under sub-rule (i) above shall also intimate to him the fact that a notice has already been issued to the appellant for filing the list of documents and requiring him (the respondent) to file, within three weeks from the service of a copy of the list on him by the appellant, a list of such additional documents as he desires to be included in the paper-book.

(iv) **Default to be reported to the Supreme Court.** — Any default by the appellant to file the list as required and within the time prescribed shall be reported to the Supreme Court for orders.

(v) **Forms of Notices to appellant and respondent.** — Notices to the appellant and the respondent under this rule shall respectively be in Forms Nos. VII and VIII of Schedule A appended to these Rules.

12. Settling of Index. — After the expiry of all the time fixed for the filing of the list of additional documents by the respondent, the Registrar shall fix a day for the settlement of the list (hereinafter referred to as the Index) of the documents to be included in the transcript of the record of the appeal and shall notify the same on the notice board of the Court. No separate notices will be issued to the parties or their Advocates. In settling the index, the Registrar as well as the parties concerned shall endeavour to exclude from the record all documents that are not relevant to the subject matter of the appeal and generally to reduce the bulk of the record as far as practicable.

13. Procedure where respondent objects to inclusion of documents. — Where the respondent objects to the inclusion of a document on the ground that it is not necessary or is irrelevant and the appellant nevertheless insists upon its inclusion the transcript of the record as finally prepared shall, with a view to subsequent adjustment of costs of or incidental to the printing of the said document, indicate in the index of the paper book or otherwise the fact that the respondent has objected to the inclusion of the document and that it has been included at the expense of the appellant.

14. Procedure where appellant objects to inclusion of document. — Where the appellant objects to the inclusion of a document on the ground that it is not necessary or is irrelevant and the respondent nevertheless insists upon its inclusion, the Registrar, if he is of the opinion that the document is not relevant, may direct that the said document be included sepa-

rately at the expense of the respondent and require the respondent to deposit within such time as he may prescribe the necessary charges therefor. If the amount so deposited is found insufficient, the Registrar may call upon (vide Form No. VI, Schedule A) the respondent to deposit additional amount or amounts within such further time as he may deem necessary. The question of the costs thereof will be dealt with by the Supreme Court at the time of the determination of the appeal.

15. Estimate of costs of the preparation of the transcript of record, etc. — As soon as the index of the record is settled the Registrar shall cause an estimate of the costs of the preparation of the transcript of the record (and of printing or cyclostyling the record, where it is required to be printed or cyclostyled) to be prepared and served on the appellant and shall require him (vide Form No. VI, Schedule A) to deposit within 30 days of such service the said amount. Such costs shall include the costs of translations, if any. The appellant may deposit the said amount in lump sum or in such instalments as the Registrar may prescribe.

16. Where record is printed for High Court appeal, no fresh transcript necessary. — Where the record has been printed for the purpose of the appeal before the High Court and sufficient number of copies of the said printed record is available, no fresh transcript of the record shall be necessary except of such additional papers as may be required.

17. Registrar may call for additional deposit if deposit made is insufficient. — If at any time during the preparation of the transcript of the record (or of printing or cyclostyling the record, where it is required to be printed or cyclostyled) the amount deposited is found insufficient, the Registrar shall call upon the appellant (vide Form No. VI, Schedule A) to deposit such further sum as may be necessary within such further time as may be deemed fit, but not exceeding 28 days in the aggregate.

18. Procedure on appellant making default in making deposit. — Where the appellant fails to make the required deposit, the preparation of the transcript of the record (and the printing or the cyclostyling of the record, where the same is required to be printed or cyclostyled) shall be suspended and the Registrar shall not proceed therewith without an order in this behalf of this Court; the Court may give such accommodation in the matter of time for making the deposit as it deems proper and if the appellant continues the default inspite of the orders of this Court, the Registrar shall obtain an order from the Court for reporting the default to the Supreme Court and report accordingly.

19. Transcript of the record to be transmitted to Supreme Court within six months. — (1) The Registrar shall, within six months from the date of the service on the respondent of the notice of the petition of appeal, transmit to the Supreme Court in triplicate a transcript in English of the record proper of the appeal to be laid before the Supreme Court, one copy of which shall be duly authenticated by appending a certificate to the same under the seal of this Court and his signature. If for any reason the same cannot be transmitted within the period of six months mentioned above, the Registrar shall report

the facts to the Supreme Court and obtain necessary extension of time for transmitting the same.

(ii) **Certificate of expenses to be appended to the transcript or forwarded separately.** — The Registrar shall also append to the transcript of the record or separately forward a certificate showing the amount of expenses incurred by the parties concerned for the preparation and the transmission of the transcript of the record.

20. Form of notice of transmission of the transcript to the parties. — When the record has been made ready, the Registrar shall certify the same and give notice to the parties of the certification and the transmission of the transcript of the record (or of the printed or cyclostyled record, where it is required to be printed or cyclostyled) in Form No. IX of Schedule A appended to these Rules, and thereafter shall send a certificate to the Supreme Court as to the date or dates on which the notice has been served on the parties in Form No. X of Schedule A appended to these Rules.

21. Record not to be printed unless ordered by the Supreme Court. — (i) Unless the Supreme Court so directs the record shall not be printed or cyclostyled in this Court.

(ii) **Rules regarding printing and cyclostyling.** — Where the Supreme Court directs that the record be printed or cyclostyled in this Court the same shall be printed or cyclostyled in accordance with the rules in Schedule 'B' appended to these Rules.

(iii) **Record may be cyclostyled if consisting of less than 200 pages.** — Where the appeal paper-book is not likely to consist of more than 200 pages, the Registrar may instead of having the record printed, have it cyclostyled.

(iv) **Rules 8 to 20 to apply mutatis mutandis to printing and cyclostyling.** — Where the record is printed or cyclostyled in this Court the provisions contained in Rules Nos. 8 to 20 above (both inclusive) shall apply mutatis mutandis to the printing and cyclostyling of the record.

(v) **Number of copies for the use of the Supreme Court.** — Unless otherwise directed by the Supreme Court, at least 20 copies of the record shall be prepared for the use of the Supreme Court.

(vi) **Number of copies for the parties.** — Unless a party informs its requirements before the printing or the cyclostyling is undertaken, each party shall be entitled to three copies of the record for its use.

22. Rate of fees for preparation of the transcript of the record and printing and cyclostyling of record. — (i) For preparing the transcript of the record (and for printing or cyclostyling the record, where it is required to be printed or cyclostyled) fees shall be charged at the following rates:—

(1) **Preparation of Index.** 50 paise per page

(2) **Copying of documents for the preparation of the transcript of the record.** 25 paise per folio of 100 words (for 4 copies)

(3) **Comparing copies of documents for the preparation of the transcript of the record** 5 paise per folio of 100 words

(4) **Writing Head Notes to documents in the transcript of the record** 10 paise for each headnote

(5) **Examination of the proofs where the record is required to be printed or cyclostyled** 25 paise for every printed or cyclostyled page

(6) **Certifying of the transcript of the record or of the printed or cyclostyled record by the Registrar** Re. 1 for every 10 pages or fraction thereof

(7) **Printing or cyclo-styling** As per bill received from the printing press or the cyclo-styling agency as per rates to be determined by the office from time to time

(ii) **Manner of appropriating the fees.** — Fees recovered as above under items (1) to (6) of sub-rule (i) above shall be credited to Government:

Provided that the Registrar may direct the party or his Advocate to supply copies of documents required for the preparation of the transcript of the record: and

Provided further that where such copies are supplied by the Advocate the Charges for the same at the rate prescribed at item (2) of sub-rule (i) above shall be paid to him out of the deposit made for the preparation of the transcript of the record, and where such copies are supplied by the party himself he shall not be charged for the same, and in respect of copies so supplied by the Advocate or the party only comparing charges at the rates prescribed at item (3) of sub-rule (i) above shall be recovered and credited to Government.

(iii) Fees recovered under item No. (7) of sub-rule (i) above, unless the printing is done by the Government Printing Press, shall be paid to the Printing Press or the cyclostyling agency which does the work and when the printing is done by the Government Printing Press, the same shall be credited to Government.

23. Translations to be made by Chief Translator's office or Special Translators. — (i) Translations required for the transcript of the record shall be made by the office of the Chief Translator or such other person (hereinafter referred to as special Translators) as the Judicial Commissioner may specially appoint from time to time in that behalf.

(ii) **Fees for estimating translation charges.** — A fee of Rs. 16 shall be charged for estimating the translating charges.

(iii) **Estimate may be called from the Chief Translator.** — If, after having due regard to the amount

of deposit made under rule 15 above and the number of documents to be translated for the purpose of inclusion in the transcript of the record, the office of the Registrar deems it necessary to obtain an estimate of the translation charges prior to the actual entrusting of the work of translation, the Chief Translator shall certify the necessary estimate within one week from the date the documents to be translated are sent to him for estimate.

24. Procedure where translations are made for Court appeal. — Any part of the record which may have been officially translated for the purposes of the hearing in the Court shall not be translated over again.

25. Where depositions of witnesses are to be translated. — The deposition of witnesses in the regional languages shall not be translated in cases in which the notes of the substance of the depositions are taken in English by Courts below, unless any one of the parties desires and shows sufficient cause to the Registrar that particular depositions should be translated and the Registrar orders that they should be translated.

26. Procedure where parties disagree in regard to translations. — The parties shall be invited from time to time to inspect the translations, and in case of disagreement, the points in dispute, which must be stated in writing, shall be submitted within one week to the Chief Translator for his decision, and the Chief Translator after perusal of the same shall decide the point in dispute. The writings submitted by the parties mentioning the points in dispute with the decision of the Chief Translator noted thereunder shall be forwarded by the Chief Translator to this Office along with the translations and the same shall be filed with the record of the case in this office.

27. Rate of fees for translation etc. — (i) A fee of Re. 1 for translations and an additional fee of 65 paise for examination and authentication per folio of 100 words shall be levied.

(ii) **Who should examine and authenticate.** — The examination and authentication in the case of the translations done by the Office of the Chief Translator shall be done by the Chief Translator, and the examination and authentication in the case of the translations done by the Special Translators shall be done by the Special Translator concerned.

(iii) **Manner of appropriation of translation fees etc.** — The fees for translations, examination and authentication, except when the translation is done by Special Translators, shall be credited to Government, and where such translations are done by Special Translators the same shall be paid to them.

(iv) **Number of copies of translations to be supplied by the Chief Translator or the Special Translator.** — The Chief Translator's office or the Special Translator, as the case may be, shall supply five typed copies of the translation for the fee of Re. 1 per folio of 100 words as provided above. Typing shall be done neatly and legibly with double space left between consecutive lines. There shall be a margin of 5 cms. and every 10th line shall be numbered in the margin. The translations shall on no account be delayed by the office of the Chief Translator or by the Special Translator.

(B) **Civil Appeals by Special Leave of the Supreme Court.**

28. Rules 6 to 27 to apply mutatis mutandis. — The provisions of Rules 6 to 27 above (both inclusive) shall apply mutatis mutandis to Civil Appeals by Special Leave to the Supreme Court.

(C) **Criminal Appeals on the Certificate of the Court.**

29. Application for Certificate. — (i) Whosoever desires to appeal to the Supreme Court shall apply by petition for a certificate granting leave to appeal to the Supreme Court.

(ii) **Oral application for certificate may be made immediately after the pronouncement of judgment.** — Notwithstanding anything contained in sub-rule (i) a party desiring to appeal to the Supreme Court may apply orally for such certificate immediately after the pronouncement of the judgment by the High Court and the Court may grant or refuse the same to the party on such oral application or direct the party to file a petition as required by sub-rule (i):

Provided, however, that if an oral application for leave to appeal under sub-rule (ii) is made and rejected, no written petition under sub-rule (i) shall lie.

(iii) **Form of petition.** — The petition praying for a certificate for leave to appeal to the Supreme Court shall be presented in Form No. XI of Schedule A appended to these Rules.

(iv) **Accompaniments to the petition.** — Every petition shall be accompanied by two spare typed copies of the petition and of the judgment for the use of the Court where the judgment has been pronounced by this Court.

30. Notice of rule. — If the Court grants rule upon the petition, the Registrar shall issue a notice in Form No. 11 of Schedule A appended to these Rules to the Government Pleader if the petition is by an accused person, and to the accused person or persons, if the petition is by the State, to show cause, within a period of time after the service of the notice to be prescribed by the Registrar, why the certificate as prayed for should not be granted.

31. Form of certificate. — Upon the Court making the Rule absolute the office shall issue a certificate in Form No. III of Schedule A appended to these Rules.

32. Costs of preparation, transmission etc., of the transcript record. — Except as otherwise ordered by the Supreme Court, the preparation of the transcript of the record (and of the printed or the cyclostyled record, where the same is required to be printed or cyclostyled) and the transmission thereof shall be at the expense of the appellant.

33. Where record is printed for Court and six copies of such printed record are available. — In all cases where the record has been printed for the purposes of the appeal before the Court or of other proceedings and where at least six such printed copies of the record are available, all available copies of the printed record except one shall be despatched to the Supreme Court along with the entire original record including the record of the Courts below. One

of such copies shall be duly authenticated by the Registrar.

Explanation.—For the purposes of this Rule the original record shall not include judgments of the Court and the Courts below but only duly authenticated copies thereof, and printed record shall include cyclostyled or typed record.

34. Where two copies of Court paper book are available.—Two copies of the Court paper book if available for despatch to the Supreme Court shall be treated as the transcript of the record. In that event only such of the additional documents as the parties choose to include for the hearing of the appeal in the Supreme Court shall be typed in duplicate and transmitted to the Supreme Court along with the Court paper book, one copy of each of which shall be duly authenticated.

35. Documents translated for Court appeal need not be translated again.—For the purpose of the transcript of the record such of the documents in vernacular as have already been translated for the purposes of the Court Appeal and which are included in the Court Appeal Paper Book need not be translated again.

36. Procedure in case of default by the appellant.—Where the appellant fails to take necessary steps to have the transcript of the record prepared and transmitted to the Supreme Court with due diligence, the Registrar shall report the default to the Registrar of the Supreme Court for orders.

37. Number of copies to be printed or cyclostyled where record is required to be printed or cyclostyled.—In the event of the Supreme Court directing this Court to print or cyclostyle the record under the supervision of the Registrar of this Court, the Registrar of this Court shall despatch to the Registrar of the Supreme Court, unless otherwise directed by the Supreme Court, not less than 15 copies where the appeal raises a question as to the interpretation of the Constitution, and not less than 10 copies in other cases.

38. Special time limit for preparation and transmission of record in cases involving sentence of death.—(i) In all cases involving a sentence of death, the printed, or the cyclostyled record shall be made ready and despatched to the Supreme Court within a period of 60 days after the receipt of the intimation from the Registrar of the Supreme Court of the filing of the petition of appeal or of the order granting special leave to appeal.

(ii) In cases where such record cannot be despatched within 60 days as stated in sub-rule (i), the Registrar shall explain the circumstances under which it cannot be so despatched and obtain extension of time from the Supreme Court.

39. Rules 6 to 27 to apply mutatis mutandis.—Except as otherwise provided in Rules 29 to 38 above (both inclusive) the provisions of Rules 6 to 27 shall apply mutatis mutandis to Criminal Appeals on the Certificate issued by the Court.

(D) Criminal Appeals by Special Leave of the Supreme Court.

40. Petitioner intending to apply for special leave to be supplied copy of judgment or order free of cost.—On application by the petitioner intending to apply for special leave of the Supreme Court in criminal proceedings and appeals, a certified copy of the judgment or order sought to be appealed from shall be supplied to him free of cost.

41. Procedure on receipt of order granting Special leave.—On receipt of the order granting special leave to appeal to the Supreme Court, the Registrar shall require the office to take necessary steps to have the record of the case transmitted to the Supreme Court in accordance with the directions contained in the order granting special leave.

42. Rules 32 to 39 to apply mutatis mutandis.—Except as otherwise provided in Rules 40 and 41 (both inclusive) shall apply mutatis mutandis to Criminal Appeals by special leave of the Supreme Court.

(E) Miscellaneous.

43. Forms.—The forms given in Schedule A appended to these Rules shall be used for the respective purposes with such additions, deletions and modifications as may be required in each individual case.

44. List of pending Supreme Court appeals to be maintained and the progress of work in each to be watched.—A list shall be maintained by the office showing the numbers and dates of all pending Supreme Court Appeals, Civil as well as Criminal, in various stages of preparation of the transcript of the Record and the Registrar shall examine every fortnight the progress made in such appeals and, if necessary, call upon the appellant or the party who may be responsible for the delay to show cause why a report should not be made to the Supreme Court regarding the default which has been responsible for the delay.

45. The powers conferred and the duties imposed upon the Registrar under the above Rules shall, in his absence, be exercised or performed, as the case may be, by such Judicial Officer as empowered on this behalf by a special or general order passed by the Hon'ble Judicial Commissioner.

SCHEDULE A

Form No. 1

(Rule 2)

Petition for a certificate for leave to appeal to the Supreme Court

In the Court of the Judicial Commissioner Goa, Daman and Diu
Appellate Civil Jurisdiction

Supreme Court Civil Application No. of 19 .

(For leave to appeal to the Supreme Court)

(In First/Second/Appeal from Order/Spl. C.A. No. of 19 .)

Petitioner

(Original)

versus

Opponent

(Original)

To

The Honourable the Judicial Commissioner and the Additional Judicial Commissioner of this Honourable Court,

The petition of

Showeth:—

1. That ... (Here set out plaintiff's name.), filed Suit No. ... in the Court of the ... Judge, at ... and prayed (Here set out a concise statement of the plaint in suit and give amount or value of the subject-matter.).

2. That the said suit came on for hearing before the ... Judge at ... on ... the day of ... and the said Judge on the ... day of ... passed a decree/an order that (Here briefly set out the decree or the order.).

(Paragraphs 3 and 4 to be added in the case of Second Appeals only.).

3. That (Here insert the name of the appellant.) the original plaintiff/defendant feeling himself aggrieved by the said decree/order filed Appeal No. ... against the same on the ... day of ... in the District Court at ...

4. That the said appeal came on for hearing before the ... Judge, at ... on the ... day of ... who (Here state briefly the result of the appeal).

5. That (Here insert name of the appellant.), the original plaintiff/defendant, feeling himself aggrieved by the said decree/order filed First/Second Appeal No. ... against the same on the ... day of ... in this Honourable Court.

6. That the said appeal came on for hearing before the Court consisting of the Honourable Mr. Justice ... and the Honourable Mr. Justice ... on the day of ... who (here briefly state the result of the appeal).

7. That the petitioner, the original plaintiff/defendant, feeling aggrieved by the said decree/order is desirous of appealing to the Supreme Court from the same on the grounds following:—

(Here state the grounds and number them consecutively as i, ii, iii, etc. ...)

8. That the appeal involves a substantial question of law as to the interpretation of the Constitution.

or

8. That the amount of the value of the subject-matter of the dispute in the Court of the first instance and still in dispute on appeal to the Supreme Court is not less than Rs. 20,000.

or

8. That the judgment, decree or final order involves directly or indirectly a claim or question respecting property of the amount or value of Rs. 20,000.

(If the Judgment, decree or final order appealed from affirms the decision of the Court immediately below add) ...

And

That the appeal involves a substantial question of law.

(If the appeal also involves a substantial question of law as to the interpretation of the Constitution then add also)

That the appeal also involves a substantial question as to the interpretation of the Constitution.

or

(If the property involved in appeal does not exceed Rs. 20,000 in amount or value or if the judgment, decree or final order does not involve directly or indirectly some claim or question respecting property of the amount or value of Rs. 20,000 say).

8. That the case is a fit one for appeal to the Supreme Court.

9. That your petitioner is ready and willing to comply with the rules and orders as to giving security for costs and otherwise regulating appeals to the Supreme Court.

The petitioner therefore prays that Your Lordships be pleased to grant him a certificate under Article 132(1)/

/133(1)(a)/(b)/(c) of the Constitution of India that (Here state the nature of the Certificate as set out in paragraph 8).

Form No. II

(Rules 3 and 30)

Notice to Show Cause

In the Court of the Judicial Commissioner Goa, Daman and Diu
Appellate Civil/Criminal Jurisdiction

Supreme Court Civil/Criminal Application No. ... of 19 ...
(In first/Second/Criminal/Appeal from Order/Spl. C. A./
/Revision/Application/Confirmation Case No. ... of 19 ...).

Petitioner

(Original)

Versus

Opponent

(Original)

To

(Fill in the name of opposite party)

Take Notice that on the ... day of ... 19 ... the Petitioner abovenamed has presented a petition (a copy of which is enclosed herewith) to this Honourable Court for leave to appeal to the Supreme Court from the Judgment and/ Decree/ /Order of this Court passed in the above matter on the ... day of ... 19 ... praying for leave to appeal to the Supreme Court and that you are hereby required within ... after the service of this notice upon you to show cause, if any, why a certificate should not be granted as prayed for in the said petition.

Dated this ... day ... of ... 19 ...

Registrar

Form No. III

(Rules 5 and 31)

Certificate of fitness for Appeal to the Supreme Court.

In the Court of the Judicial Commissioner Goa, Daman and Diu
Appellate Civil/Criminal Jurisdiction

SUPREME COURT CIVIL/CRIMINAL APPLICATION
No. ... of 19... for leave to appeal to the Supreme Court of India at New Delhi, against the judgment and Decree/Order, dated the ... of this Court (Coram: —...) in ... No. ...

Petitioner

(Original)

versus

Opponent

(Original)

UPON reading the Petition of ... the Petitioner abovenamed presented on the ... day of ... 19... praying for leave to appeal to the Supreme Court against the Judgment and Decree/ /Order, dated the ... day of ... 19... of this Court in the said Appeal No. ... of 19...

AND UPON hearing Mr. ... Advocate for the petitioner and Mr. ... Advocate for the Opponent, there being no appearance for the Opponent No. ... though served, THIS COURT DOTH CERTIFY that this case is a fit one for Appeal to the Supreme Court of India under Article 132(1)/133(1)(a)/(b)/(c)/134(1)(c) of the Constitution of India.

AND THIS COURT DOTH FURTHER DIRECT that the costs of this Civil Application shall be the costs in the Appeal to the Supreme Court.

WITNESS ... Esquire, Judicial Commissioner of Goa, Daman and Diu aforesaid this ... day of ... One thousand nine hundred and ...

By the Court,

Seal:

REGISTRAR,

SEALER.

This ... day of ... 19... Received the above Certificate on behalf of the Petitioner.

Advocate for the Petitioner:

Form No. IV

(Rules 9 and 39)

Notice of the order granting Special leave and/the Lodgement of the petition of appeal.

In the Court of the Judicial Commissioner Goa, Daman and Diu Appellate Civil/Criminal Jurisdiction

Supreme Court Civil/Criminal Appeal No. ... of 19 ...

(From the Judgment and Decree/Order of this Court dated ... in ... of ... 19 ...).

Appellant

(Original)

versus

Respondent

(Original)

To

TAKE NOTICE that/Special Leave to appeal has been granted to the appellant abovenamed by the Supreme Court and the appellant has lodged the petition of appeal in the Registry of the Supreme Court/and that as required by rule 6 of Order XV of the Supreme Court rules, 1966, the appellant has deposited with the Registrar of the Supreme Court, the requisite security for the costs of the respondent.

TAKE FURTHER NOTICE THAT if you desire to contest the appeal you may within Thirty days of the receipt of this Notice enter appearance before the Supreme Court, New Delhi, either in person or by an Advocate on Record of that Court duly appointed by you in that behalf and take such part in the proceedings as you may be advised.

TAKE FURTHER NOTICE ALSO that in default of your appearance within the time prescribed the appeal will be proceeded with and determined in your absence and no further notice in relation thereto shall be given to you.

WITNESS ... Esquire, Judicial Commissioner of Goa, Daman and Diu aforesaid, this ... day of ... one thousand nine hundred and ...

By the Court,

Seal.

For Registrar and Sealer.

This ... day of ... 19 ...

Form No. V

(Rules 9 and 39)

Certificate regarding service of Notice on the Respondent(s) under Rule 11/15, Order XV/XXI of the Supreme Court Rules, 1966.

In the Court of the Judicial Commissioner Goa, Daman and Diu Appellate Civil/Criminal Jurisdiction

Supreme Court Civil/Criminal Appeal No. ... of 19 ...

(From the judgment and decree/order of this Court dated ... in ... of 19 ...).

Petitioner(s)

versus

Respondent(s)

I DO HEREBY CERTIFY that the notice under Rule 11/15 order XV/XVI/XXI of Supreme Court Rules, 1966, in the above case under Appeal to the Supreme Court of India, has been served on

WITNESS ... Esquire, Judicial Commissioner of Goa, Daman and Diu aforesaid this ... day of ... one thousand nine hundred and

Registrar

Seal.

Sealer.

This ... day of ... 19 ...

Form No. VI

(Rules 10, 14, 15, 17 and 39)

Notice to appellant for depositing the costs of the preparation, transmission etc. of the transcript of the record.

In the Court of the Judicial Commissioner Goa, Daman and Diu Appellate Civil/Criminal Jurisdiction

Supreme Court Civil/Criminal Appeal No. ... of 19 ...

(From the judgment and decree/order of this Court dated ... in ... of 19 ...).

Appellant

versus

Respondent

To

TAKE NOTICE that you are required to make a/an additional deposit of Rs. ... within eight/thirty days from the service hereof on you to meet the costs of the transmission//the preparation of the English Transcript of the Original//record/proper of the case in question/and the printing//cyclostyling/and the transmission thereof to the Supreme Court.

TAKE FURTHER NOTICE that if you fail to make the said additional deposit within the time mentioned above the default will be reported to the Supreme Court.

WITNESS ... Esquire, Judicial Commissioner of Goa, Daman and Diu aforesaid, this ... day of ... one thousand nine hundred and ...

By the Court,

Seal.

For Registrar,
and Sealer.

This ... day of ... 19 ...

Form No. VII

(Rules 11 and 39)

Notice to the Appellant for inspection of the Record and for filing the list of documents to be included in the Transcript of the Record.

In the Court of the Judicial Commissioner Goa, Daman and Diu Appellate Civil/Criminal Jurisdiction

Supreme Court Civil/Criminal Appeal No. ... of 19 ...

(From the judgment and decree/order of this Court dated ... in ... of 19 ...).

Appellant

versus

Respondent

To

NOTICE is hereby given to you, that the Record and Proceedings of the case from which the said Supreme Court Appeal arises are available in this Court and that you may take inspection of the same, if you so desire.

TAKE FURTHER NOTICE that you are required to file in triplicate within four weeks from the date of receipt of this notice a list of documents which you desire to include in the appeal paper book, after serving on each of the respondents a copy of the said list, and also to produce an acknowledgement from each of the respondents that a copy of the said list has been served on him.

TAKE FURTHER NOTICE ALSO that you are required to take all necessary steps with due diligence to arrange to transmit in triplicate with all convenient despatch a Transcript in English of the Record proper of the case/the printed/cyclostyled record of the case so far as is material to the questions in dispute in the said Appeal for being placed before the Supreme Court for the hearing of the said Appeal.

WITNESS ... Esquire, Judicial Commissioner of Goa, Daman and Diu, aforesaid this ... day of One thousand nine hundred and ...

By the Court,

Seal.

For the Registrar and Sealer.

This ... day of ... 19 ...

Form No. VIII

(Rules 11 and 39)

Notice to the Respondent for inspection of the Record and for filing the list of additional documents to be included in the Transcript of the Record.

In the Court of the Judicial Commissioner Goa, Daman and Diu
Appellate Civil/Criminal Jurisdiction

Supreme Court Civil/Criminal Appeal No. ... of 19 ...

(From the Judgment and/Decree/Order of this Court dated ... in ... of ... 19 ...).

Appellant
versus
Respondent

To

NOTICE is hereby given to you, that the Record and Proceedings of the case from which the said Supreme Court Appeal arises are available in this Court and that you may take inspection of the same if you so desire.

TAKE FURTHER NOTICE that you are required, upon the Appellant's serving on you a copy of the list of documents which the appellant intends to include in the paper book, to file in triplicate within three weeks of the service on you of the said list by the Appellant, a list of such additional documents as you consider necessary for the determination of the Appeal.

TAKE FURTHER NOTICE ALSO that you are required to take all necessary steps with the due diligence, so far as you may be concerned, in the matter of arranging to transmit in triplicate with all convenient despatch a Transcript in English of the Record paper of the case/the printed/cyclostyled record of the case so far as is material to the questions in dispute in the said appeal for being placed before the Supreme Court for the hearing of the said Appeal.

WITNESS ... Esquire, Judicial Commissioner of Goa, Daman and Diu, aforesaid, this ... day of ... One thousand nine hundred and ...

By the Court,

For the Registrar and Sealer.

This ... day of ... 19 ...

Form No. IX

(Rules 20 and 39)

Notice of the certification and transmission of the transcript of the record.

In the Court of the Judicial Commissioner Goa, Daman and Diu
Appellate Civil/Criminal Jurisdiction

Supreme Court Civil/Criminal Appeal No. ... of 19 ...
(From the Judgment and/Decree/Order of this Court dated ... in ... of 19 ...).

Appellant(s)
(Original ...)
versus
Respondent(s)
(Original ...)

To

TAKE NOTICE that/the English transcript of the Record proper/the printed/cyclostyled record of the above mentioned appeal has been authenticated and transmitted to the Supreme Court on the ...

TAKE NOTICE ALSO that you are required to take necessary steps in the prosecution of the Appeal in accordance with the provisions of Supreme Court Rules, 1966.

WITNESS ... Esquire, Judicial Commissioner of Goa, Daman and Diu aforesaid, this ... day of ... One thousand nine hundred and ...

For Registrar and Sealer.

Seal.

This ... day of ... 19 ...

Form No. X

(Rules 20 and 39)

Certificate of the Registrar under rules 11/15, Order XV/XXI of the Supreme Court Rules, 1966.

In the Court of the Judicial Commissioner Goa, Daman and Diu
Appellate Civil/Criminal Jurisdiction

Supreme Court Civil/Criminal Appeal No. ... of 19 ...
(From the Judgment and/Decree/Order dated ... in ... of 19 ...).

Petitioner/s

versus
Respondent/s

I DO HEREBY CERTIFY that the notices regarding the authentication and the despatch of the Transcript in English of the record proper/printed/cyclostyled record in the above case to the Supreme Court have been duly served on the Appellants and the Respondents as follows:

WITNESS ... Esquire, Judicial Commissioner Goa, Daman and Diu, aforesaid, this ... day of ... One thousand nine hundred and ...

Registrar
Sealer

This ... day of ... 19 ...

Form No. XI

(Rule 29)

Petition for a Certificate for leave to Appeal to the Supreme Court.

In the Court of the Judicial Commissioner Goa, Daman and Diu
Appellate Civil/Criminal Jurisdiction

Supreme Court Criminal Application No. ... of 19 ...

(For leave to appeal to the Supreme Court).

(In Criminal/Appeal/Revision/Application/Confirmation Case No. ... of 19 ...).

Petitioner;
(Original ...)

versus
Opponent;
(Original ...)

To

The Honourable the Judicial Commissioner and the Additional Judicial Commissioner of this Honourable Court:

The Petition of ...

Showeth: --

1. That the Petitioner/Opponent abovenamed was charged with and tried for offences under sections ... by the Judicial Magistrate, First Class, .../Sessions Judge at ... and was acquitted of all/the offences under sections ... but was convicted of the offences under sections ... and was sentenced to death/simple/rigorous imprisonment for ... and/or/a fine of Rs. ... in default of payment of which to simple/rigorous imprisonment for ... for the offence under section ... and (Here give details of sentences for the various offences stating whether the substantive sentences of imprisonment were ordered to run concurrently.).

2. That the Petitioner/Opponent abovenamed being aggrieved by the said order of acquittal/conviction and sentence filed Criminal Appeal No. ... in this Honourable Court on ...

3. That the said appeal came on for hearing before the Court consisting of the Honourable Mr. Justice ... and the Honourable Mr. Justice ... on the ... day of ... who (here briefly state the result of the appeal).

4. That the petitioner feeling himself aggrieved by the said judgment and order is desirous of appealing to the Supreme Court from the same on the grounds following: --

(Here state the grounds and number them consecutively as i, ii, iii, etc.).

3. That the appeal involves a substantial question of law as to the interpretation.

... or ...

5. That the case is a fit one for appeal to the Supreme Court.

6. That the petitioner is ready and willing to comply with the rules and orders regulating appeals to the Supreme Court.

The petitioner, therefore, prays that Your Lordships be pleased to grant the petitioner a certificate under Article 132(1)/134(1)(c) of the Constitution that (Here state the nature of the certificate as set out in paragraph 5.)

Given this day of

SCHEDULE B

Rules as to Printing of Record

1. The record in appeals to the Court shall be printed in the form known as demy quarto on both sides of the paper with single spacing.

2. The size of the paper used shall be such that the sheet, when folded and trimmed, will be about 11 inches in height and 8½ inches in width or 29.7 cms. in height and 21 cms. in width.

3. The type to be used in the text shall be pica type, but «Long Primer» shall be used in printing accounts, tabular matter and notes. Every tenth line shall be numbered in the margin.

4. Records shall be arranged in two parts in the same volume, where practicable, viz.:—

Part I.—The pleadings and proceedings, the transcript of the evidence of the witnesses, the judgments, decrees, etc., of the Courts below, down to the order admitting the appeal.

Part II.—The exhibits and documents.

5. The Index to Part I shall be in chronological order, and shall be placed at the beginning of the volume.

The Index to Part II shall follow the order of the exhibit mark, and shall be placed immediately after the Index to Part I.

6. Part I shall be arranged strictly in chronological order, etc., in the same order as the Index.

Part II shall be arranged in the most convenient way for the use of the Court, as the circumstances of the case require. The documents shall be printed as far as suitable in chronological order, mixing plaintiff's and defendant's documents together when necessary. Each document shall show its exhibit marks, and whether it is a plaintiff's or defendant's document (unless this is clear from the exhibit mark) and in all cases documents relating to the same matter such as:—

(a) a series of correspondence, or

(b) proceedings in a suit other than the one appeal, shall be kept together. The order in the record of the documents in Part II will probably be different from the order of the Index, and the proper page number of each document shall be inserted in the printed Index.

The parties will be responsible for arranging the record in proper order for the Court, and in difficult cases counsel may be asked to settle it.

7. The documents in Part I shall be numbered consecutively.

The documents in Part II shall not be numbered apart from the exhibit mark.

8. Each document shall have a heading which shall consist of the number of exhibit mark and the description of the document in the Index without the date.

9. Each document shall have a heading which shall be repeated at the top of each page over which the document extends; viz.

Part I

(a) Where the case has been before more than one Court, the short name of the Court shall first appear. Where the case has been before only one Court, the name of the Court need not appear.

(b) The heading of the document shall then appear consisting of the number and the description of the document

in the Index, with the date, except in the case of oral evidence.

(c) In the case of oral evidence, «Plaintiff's evidence» or «Defendant's evidence» shall appear next to the name of the Court and then the number in the Index and the witness's name, with «examination», «cross-examination» or «re-examination», as the case may be.

Part II

The word «Exhibit» shall first appear and next to it the exhibit mark and the description of the documents in the Index with the date.

Sufficient space shall be left after the heading to distinguish it from the rest of the matter printed on the page.

10. The parties shall agree to the omission of formal and irrelevant documents, but the description of the document may appear (both in the Index and in the record), if desired, with the words «not printed» against it.

A long series of documents, such as accounts, rent rolls, inventories, etc., shall not be printed in full unless counsel advises, but the parties shall agree to short extracts being printed as specimens.

11. In cases where maps are of an inconvenient size or unsuitable in character, the appellant shall, in agreement with the respondent, prepare maps drawn properly to scale and of reasonable size, showing as far as possible, the claims or the respective parties, in different colours.

V. S. Jetley, Judicial Commissioner.

Panaji, 18th July, 1969.

Notification

LD/2/N-28/69

The Banking Companies (Acquisition and Transfer of Undertakings) Ordinance 1969 promulgated by the Vice-President acting as President of India is hereby reproduced for general information of the Public.

M. S. Borkar, Under Secretary.

Panaji, 26th July, 1969.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 19th July, 1969

Asadha 28, 1891 (Saka)

THE BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ORDINANCE, 1969

No. 8 of 1969

Promulgated by the Vice-President acting as President in the Twentieth Year of the Republic of India.

An Ordinance to provide for the acquisition and transfer of the undertakings of certain banking companies in order to serve better the needs of development of the economy in conformity with national policy and objectives and for matters connected therewith or incidental thereto.

Whereas Parliament is not in session and the Vice-President acting as President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the Vice-President acting as President is pleased to promulgate the following Ordinance:—

CHAPTER I
Preliminary

1. Short title and commencement.— (1) This Ordinance may be called the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1969.

(2) It shall come into force at once.

2. Definitions.— In this Ordinance, unless the context otherwise requires,—

(a) “banking company” does not include a foreign company within the meaning of section 591 of the Companies Act, 1956;

1 of 1956.

(b) “existing bank” means a banking company specified in column 1 of the First Schedule, being a company the deposits of which, as shown in the return as on the last Friday of June, 1969, furnished to the Reserve Bank under section 27 of the Banking Regulation Act, 1949, were not less than rupees fifty crores;

10 of 1949.

(c) “corresponding new bank”, in relation to an existing bank, means the body corporate specified against such bank in column 2 of the First Schedule;

(d) “Custodian” means the Custodian referred to, or appointed, under section 10;

(e) “prescribed” means prescribed by rules made under this Ordinance;

(f) “Tribunal” means the Tribunal constituted under section 7;

(g) words and expressions used herein and not defined but defined in the Banking Regulation Act, 1949, have the meanings respectively assigned to them in that Act.

10 of 1949.

CHAPTER II

Transfer of the undertakings of existing banks

3. Establishment of corresponding new banks.—

(1) On the commencement of this Ordinance, there shall be constituted such corresponding new banks as are specified in the First Schedule.

(2) The paid-up capital of every corresponding new bank constituted under sub-section (1) shall, until any provision is made in this behalf in any scheme made under section 13, be equal to the paid-up capital of the existing bank in relation to which it is the corresponding new bank.

(3) The entire capital of each corresponding new bank shall stand vested and allotted to the Central Government.

(4) Every corresponding new bank shall establish a reserve fund to which shall be transferred the balance, if any, standing to the credit of the appropriate existing bank and such further sums, if

any, as may be transferred in accordance with the provisions of section 17 of the Banking Regulation Act, 1949.

10 of 1949.

(5) Every corresponding new bank shall be a body corporate with perpetual succession and a common seal and shall sue and be sued in its name.

(6) Every corresponding new bank shall carry on and transact the business of banking as defined in clause (b) of section 5 of the Banking Regulation Act, 1949, and may engage in one or more forms of business specified in sub-section (1) of section 6 of that Act.

10 of 1949.

4. Undertaking of existing banks to vest in corresponding new banks.— On the commencement of this Ordinance, the undertaking of every existing bank shall be transferred to, and shall vest in, the corresponding new bank.

5. General effect of vesting.— (1) The undertaking of each existing bank shall be deemed to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve fund, investments and all other rights and interests arising out of such property as were immediately before the commencement of this Ordinance in the ownership, possession, power or control of the existing bank in relation to the undertaking, whether within or without India, and all books of accounts, registers, records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the existing bank in relation to the undertaking.

(2) If, according to the laws of any country outside India, the provisions of this Ordinance by themselves are not effective to transfer or vest any asset or liability situated in that country which forms part of the undertaking of an existing bank to, or in, the corresponding new bank, the affairs of the existing bank in relation to such asset or liability shall, on and from the commencement of this Ordinance, stand entrusted to the chief executive officer for the time being of the corresponding new bank, and the chief executive officer may exercise all powers and do all such acts and things as may be exercised or done by the existing bank for the purpose of effectively winding up the affairs of that bank.

(3) The chief executive officer of the corresponding new bank shall, in exercise of the powers conferred on him by sub-section (2), take all such steps as may be required by the laws of any such country outside India for the purpose of effecting such transfer or vesting, and in connection therewith may either himself or through any person authorised by him in this behalf realise any asset and discharge any liability of the existing bank.

(4) Notwithstanding anything contained in sub-section (2), on the commencement of this Ordinance, no person shall make any claim or demand or take any proceeding in India against any existing bank or any person acting in its name or on its behalf except in so far as may be necessary for enforcing the provisions of this section or except in so far as it relates to any offence committed by such person.

(5) Unless otherwise expressly provided by this Ordinance, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the commencement of this Ordinance and to which the existing bank is a party or which are in favour of the existing bank shall be of as full force and effect against or in favour of the corresponding new bank, and may be enforced or acted upon as fully and effectively as if in the place of the existing bank the corresponding new bank had been a party thereto or as if they had been issued in favour of the corresponding new bank.

(6) If, on the date of commencement of this Ordinance, any suit, appeal or other proceeding of whatever nature is pending by or against the existing bank, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertaking of the existing bank or of anything contained in this Ordinance, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the corresponding new bank.

6. Payment of compensation. — (1) The Central Government shall pay compensation to each existing bank for the acquisition of its undertaking and such compensation shall be determined in accordance with the principles specified in the Second Schedule and in the manner hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be determined in accordance with such agreement;

(b) where no such agreement can be reached, the Central Government shall refer the matter to the Tribunal within a period of three months from the date on which the Central Government and the existing bank fail to reach an agreement regarding the amount of compensation.

(2) Notwithstanding that separate valuations are calculated under the principles specified in the Second Schedule in respect of the several matters referred to therein, the amount of compensation to be given shall be deemed to be a single compensation to be given for the undertaking as a whole.

(3) The amount of compensation determined in accordance with the foregoing provisions shall be paid to each existing bank in marketable Central Government securities and the form of such securities and the value thereof, computed with reference to their market value shall be such as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where the amount of such compensation is not an exact multiple of the value of the Government security as so notified, the amount in excess of the nearest lower multiple of such value shall be paid by cheque drawn on the Reserve Bank.

7. Constitution of the Tribunal. — (1) The Central Government may, for the purposes of this Ordinance, constitute a Tribunal which shall consist of a Chairman and two other members.

(2) The Chairman shall be a person who is, or has been, a Judge of a High Court or of the Supreme Court, and, of

the two other members, one shall be a person who, in the opinion of the Central Government, has had experience of banking and the other shall be a person who is a Chartered Accountant within the meaning of the Chartered Accountants' Act, 1949.

38 of 1949.

(3) If, for any reason, a vacancy occurs in the office of the Chairman, or any other member of the Tribunal, the Central Government may fill the vacancy by appointing another person thereto in accordance with the provisions of sub-section (2) and any proceeding may be continued before the Tribunal so constituted from the stage at which the vacancy had occurred.

(4) The Tribunal may for the purpose of determining any compensation payable under this Ordinance, choose one or more persons having special knowledge or experience of any relevant matter to assist in the determination of such compensation.

8. Tribunal to have powers of a Civil Court. — The Tribunal shall have the powers of a Civil Court, while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely: —

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence and affidavits;

(d) issuing commissions for the examination of witnesses or documents.

9. Procedure of the Tribunal. — (1) The Tribunal shall have power to regulate its own procedure.

(2) The Tribunal may hold the whole or any part of its inquiry *in camera*.

(3) Any clerical or arithmetical error in any order of the Tribunal or any error arising therein from an accidental slip or omission may, at any time, be corrected by the Tribunal either by its own motion or on the application of any of the parties.

CHAPTER III

Management of corresponding new banks

10. Head office and branches. — (1) The head office of each corresponding new bank shall be at such place as the Central Government may, by notification in the Official Gazette, specify in this behalf, and, until any such place is so specified, shall be at the place at which the head office of the existing bank in relation to which it is a corresponding new bank, is on the date of the commencement of this Ordinance, located.

(2) The general superintendence and direction of the affairs and business of a corresponding new bank shall, until any provision to the contrary is made under any scheme made under section 13, be vested in a Custodian, who shall be the chief executive officer of that bank.

(3) The Chairman of the existing bank holding office as such immediately before the commencement

of this Ordinance, shall be the Custodian of the corresponding new bank and shall receive the same emoluments as he was receiving immediately before such commencement:

Provided that the Central Government may, if it is of opinion that it is necessary so to do, appoint any other person as the Custodian of a corresponding new bank and the Custodian so appointed shall receive such emoluments as the Central Government may specify in this behalf.

(4) The Custodian shall hold office during the pleasure of the Central Government.

11. Corresponding new bank to be guided by the directions of the Central Government. — (1) Every corresponding new bank shall, in the discharge of its functions, be guided by such directions in regard to matters of policy involving public interest as the Central Government may, after consultation with the Governor of the Reserve Bank, give.

(2) If any question arises whether a direction relates to a matter of policy involving public interest, it shall be referred to the Central Government and the decision of the Central Government thereon shall be final.

12. Advisory Board to aid and advise the Custodian. — (1) There shall be an Advisory Board to aid and advise the Custodian in the discharge of his duties:

Provided that the Advisory Board shall be dissolved on the constitution of a Board of directors under clause (b) of sub-section (2) of section 13:

Provided further that the Central Government may, if it is of opinion that it is necessary so to do, dissolve the Advisory Board at any other time.

(2) The Advisory Board shall consist of such persons as the Central Government may, by notification in the Official Gazette, appoint.

13. Power of Central Government to frame scheme. — (1) The Central Government may, after consultation with the Reserve Bank, frame a scheme for carrying out the provisions of this Ordinance in relation to existing banks.

(2) In particular, and without prejudice to the generality of the foregoing power, the said scheme may provide for all or any of the following matters, namely: —

(a) the capital structure of the corresponding new bank, so however that the paid-up capital of any such bank shall not be in excess of fifteen crores of rupees;

(b) the constitution of the Board of Directors, by whatever name called, of the corresponding new bank and all such matters in connection therewith or incidental thereto as the Central Government may consider to be necessary or expedient;

(c) the manner of the payment of the compensation to the shareholders of the existing bank;

(d) such incidental, consequential and supplemental matters as may be necessary to carry out the provisions of this Ordinance.

CHAPTER IV

Miscellaneous

14. Closure of accounts and disbursal of profits. —

(1) Every corresponding new bank shall cause its books to be closed and balanced on the 31st day of December of each year and shall appoint, with the previous approval of the Reserve Bank, auditors for the audit of its accounts.

(2) The audited accounts of every corresponding new bank shall be verified and signed and transmitted to the Central Government and the Reserve Bank in such manner as may be prescribed.

(3) After making provisions for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds and all other matters for which provision is necessary under any law, or which are usually provided for by banking companies, a corresponding bank shall transfer the balance of profits to the Central Government.

15. Removal from office of directors, etc. — (1) Every person holding office as Chairman, Managing or other Director of an existing bank, shall be deemed to have vacated office on the commencement of this Ordinance.

(2) Save as otherwise provided in sub-section (1), all officers and other employees of an existing bank shall become, on the commencement of this Ordinance, officers or other employees of the corresponding new bank and shall hold their offices or services in that bank on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to them if the undertaking of the existing bank had not been transferred and vested in the corresponding new bank.

(3) For the persons who immediately before the commencement of this Ordinance were the trustees for any pension or provident fund constituted for the officers or other employees of an existing bank, there shall be substituted as trustees such persons as the Central Government may, by general or special order, specify.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other employee from an existing bank to a corresponding new bank shall not entitle such officer or any other employee to any compensation under this Ordinance or any other law for the time being in force and on such claim shall be entertained by any court, tribunal or other authority.

16. Obligations as to fidelity and secrecy. — (1) Every corresponding new bank shall observe, except as otherwise required by law, the practices and usages customary among bankers, and, in particular, it shall not divulge any information relating to or to the affairs of its constituents except in circumstances in which it is, in accordance with law or practice and usage customary among bankers, necessary or appropriate for the corresponding new bank to divulge such information.

(2) **Custodian to be public servant.**—Every Custodian of a corresponding new bank shall be deemed to be a public servant for the purpose of Chapter IX of the Indian Penal Code.

45 of 1860.

17. **Certain defects not to invalidate acts or proceedings.**—All acts done by the Custodian, acting in good faith, shall, notwithstanding any defect in his appointment or in the procedure, be valid.

18. **Indemnity.**—Every Custodian of a corresponding new bank and every officer of the Central Government and of the Reserve Bank shall be indemnified by such bank against all losses and expenses incurred by him in or in relation to the discharge of his duties except such as has been caused by his own wilful act or default.

19. **References to existing banks on and from the commencement of this Ordinance.**—Any reference to any existing bank in any law, other than this Ordinance, or in any contract or other instrument shall be construed as a reference to the corresponding new bank in relation to it.

20. **Dissolution of existing banks.**—Notwithstanding anything contained in any other law for the time being in force, an existing bank shall, on such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, stand dissolved.

21. **Power to make rules.**—(1) The Central Government may, for the purpose of carrying out the provisions of this Ordinance, make such rules as it may think fit.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which the business of the Advisory Board shall be transacted and the procedure to be followed at the meetings thereof;

(b) fees and allowances which may be paid to members of the Advisory Board for attending any meetings of the Board or of any Committee that may be constituted by the Board;

(c) the formation of any Committee whether of the Advisory Board or of the corresponding new bank and the delegation of powers and functions of such Committees;

(d) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be, after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice

to the validity of anything previously done under that rule.

22. **Amendment of the Banking Regulation Act, 1949.**—In the Banking Regulation Act, 1949, —

10 of 1949.

(a) in sub-section (3) of section 34A, for the words "any subsidiary bank", the words "a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1969, and any subsidiary bank" shall be substituted;

(b) in sub-section (3) of section 36AD, for the words "any subsidiary bank", the words "a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1969, and any subsidiary bank" shall be substituted;

(c) in section 51, for the words "or any other banking institution notified by the Central Government in this behalf", the words "or any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1969, or any other banking institution notified by the Central Government in this behalf" shall be substituted.

23. **Removal of difficulties.**—If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may make such order, not inconsistent with the provisions of the Ordinance, as may appear to it to be necessary for the purpose of removing the difficulty.

THE FIRST SCHEDULE

(See sections 2, 3 and 4)

| Column 1 | Column 2 |
|------------------------------|-------------------------------|
| <i>Existing bank</i> | <i>Corresponding new bank</i> |
| Central Bank of India, Ltd. | Central Bank of India. |
| Bank of India, Ltd. | Bank of India. |
| Punjab National Bank, Ltd. | Punjab National Bank. |
| Bank of Baroda, Ltd. | Bank of Baroda. |
| United Commercial Bank, Ltd. | United Commercial Bank. |
| Canara Bank, Ltd. | Canara Bank. |
| United Bank of India, Ltd. | United Bank of India. |
| Dena Bank, Ltd. | Dena Bank. |
| Syndicate Bank, Ltd. | Syndicate Bank. |
| Union Bank of India, Ltd. | Union Bank of India. |
| Allahabad Bank, Ltd. | Allahabad Bank. |
| Indian Bank, Ltd. | Indian Bank. |
| Bank of Maharashtra, Ltd. | Bank of Maharashtra. |
| Indian Overseas Bank, Ltd. | Indian Overseas Bank. |

THE SECOND SCHEDULE

(See section 6)

Principles of compensation

1. The compensation to be paid by the Central Government to each existing bank in respect of the acquisition of the undertaking thereof shall be an amount equal to the sum-total of the value of the

assets of the existing bank as on the commencement of this Ordinance, calculated in accordance with the provisions of Part I, less the sum-total of the liabilities computed and obligations of the existing bank calculated in accordance with the provisions of Part II.

Part I.—Assets

For the purposes of this Part "assets" means the total of the following:—

(a) the amount of cash in hand and with the Reserve Bank and the State Bank of India (including foreign currency notes which shall be converted at the market rate of exchange);

(b) the amount of balances with any bank, whether on deposit or currency account, and money at call and short notice, balances held outside India being converted at the market rate of exchange;

Provided that any balances which are not realisable in full shall be deemed to be debts and valued accordingly;

(c) the market value, as on the day immediately before the commencement of the Ordinance, of any securities, shares, debentures, bonds and other investments, held by the bank concerned.

Explanation.—For the purpose of this clause—

(i) securities of the Central and State Governments [other than the securities specified in sub-clauses (ii) and (iii) of this *Explanation*] maturing for redemption within five years from the commencement of the Ordinance shall be valued at the face value or the market value, whichever is higher;

(ii) securities of the Central Government, such as Post Office Certificates and Treasury Savings Deposit Certificates and any other securities or certificates issued or to be issued under the Small Savings Scheme of the Central Government, shall be valued at their face value or the encashable value as on the day immediately before the commencement of the Ordinance, whichever is higher;

(iii) where the market value of any Government security such as the zamindari abolition bonds or other similar security in respect of which the principal is payable in instalments, is not ascertainable or is, for any reason, not considered as reflecting the fair value thereof or as otherwise appropriate the security shall be valued at such an amount as is considered reasonable having regard to the instalments of principal and interest remaining to be paid, the period during which such instalments are payable, the yield of any security, issued by the Government to which the security pertains and having the same or approximately the same maturity, and other relevant factors;

(iv) where the market value of any security, share, debenture, bond or other investment is not considered reasonable by reason of its having been affected by abnormal factors, the investments may be valued on the basis of its average market value over any reasonable period;

(v) where the market value of any security, share, debenture, bond or other investment is not ascertainable, only such value, if any, shall be taken into account as is considered reasonable having regard to the financial position of the issuing concern, the dividend paid by it during the preceding five years and other relevant factors;

(d) the amount of advances (including loans, cash credits, overdrafts, bills purchased and discounted) and other debts, whether secured or unsecured, to the extent to which they are reasonably considered recoverable, having regard to the value of the security, if any, the operation on the account, the reported worth and responsibility of the borrower, the prospects of realisation and other relevant considerations;

(e) the value of any land or buildings;

(f) the total amount of the premia paid, in respect of all leasehold properties, reduced in the case of each such premium by an amount which bears to such premium the same proportions as the expired term of the lease in respect of which such premium shall have been paid bears to the total term of the lease;

(g) the written down value as per books, or the realisable value, as may be considered reasonable, of all furniture, fixtures and fittings;

(h) the market or realisable value, as may be appropriate, of other assets appearing on the books of the bank, no value being allowed for capitalised expenses, such as share selling commission, organisational expenses and brokerage, losses incurred and similar other items.

Part II.—Liabilities

For the purposes of this Part "liabilities" means the total amount of all outside liabilities existing at the commencement of the Ordinance, and all contingent liabilities which the corresponding new bank may reasonably be expected to be required to meet out of its own resources on or after the date of commencement of the Ordinance.

Certain dividends not to be taken into account

2. No separate compensation shall be payable for any profits or any dividend in respect of any period immediately preceding the commencement of the Ordinance for which, in the ordinary course, profits would have been transferred or dividend declared after the commencement of the Ordinance.

V. V. GIRI,

Vice-President acting as President.

N. D. P. NAMBOODIRIPAD,
Joint Secy. to the Govt. of India.

Notification

LD/8/N/29/69

In exercise of the powers conferred by section 34 of the Police Act, 1861, the Lt. Governor of Goa,

Daman and Diu hereby specially extends the provisions of section 34 of the said Act to the towns of Panaji, Margao, Mapuca, Vasco da Gama, Vila de Pernem, Bicholim, Sariguem, Quepem, Valpoi, Canacona, Ponda, Daman and Diu in this Union territory with immediate effect.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

R. L. Segel, Law Secretary.

Panaji, 28th July, 1969.

Legislature Department

Corrigendum

LA/A/1605/69

In supersession of this Department's Corrigendum No. LA/1060/69, dated the 26th April, 1969, published in the Government Gazette no. 8, Series I,

dated the 22nd May, 1969, following modified Corrigendum is hereby published:—

"In Bill No. 6 of 1969, the Goa, Daman and Diu Excise Duty (Amendment) Bill, 1969 as published in Government Gazette, Series I, No. 2, dated the 10th April, 1969, vide this Department's Notification No. LA/90/69.

For clause 2, read the following—

"2. *Amendment of Section 2.*—In section 2 of the Goa, Daman and Diu Excise Duty Act, 1964 (hereinafter referred to as the principal Act), after clause (b), the following clause shall be inserted, namely:

'(bb) "cashew liquor" means liquor manufactured from cashew fruit in any part of India.'

R. L. Segel, Secretary to the Government of Goa, Daman and Diu.

Panaji, 26th July, 1969.